IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR NO.3917 OF 2006

DATE OF DECISION: 12 .7.2007

Pal Singh ...PETITIONER

VERSUS

Punjab Wakf Board and Anr. ...RESPONDENTS

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.B.S.Saini, Advocate for
Mr.Paramjit Kalia, Advocate for the petitioner

Permod Kohli, J. (Oral)

This Revision under Article 227 of the Constitution of India has been preferred by the petitioner challenging the order dated 19.12.2005 passed by the Presiding Officer, Wakf Tribunal, Amritsar, decreeing the suit of the respondent-Wakf Board for possession of land measuring 2 kanals 6 marlas bearing khasra no.61 situated at Village Qilla Zjiwan Singh,

Tehsil and District Amritsar.

The respondent-Board before the Tribunal sought a decree for possession of the aforesaid land on the ground that the property in question is a wakf property and the defendant/petitioner has forcibly and illegally taken the possession of the land by raising unauthorized construction. The respondent/Board, besides seeking possession, also sought a decree for mesne profits for illegal use and occupation of the suit property to the extent of Rs.1000/- per month. The petitioner/defendant, on being served in the suit, opposed the suit by filing written statement, claiming ownership and possession of the suit property for the last 55 years. The property was claimed to be situated within lal lakeer. The Tribunal framed as many as four issues. The plaintiff/respondent was burdened to establish that the property in question is a Wakf property. The Wakf Board through its Estate Officer brought on record a Notification issued by the Central Government whereby the land measuring 2K-6M bearing Khasra No.61 situated in Village Qilla Jiwan Singh, Amritsar has been declared the Sunny Wakf property. It was accordingly contended by the respondent/Wakf Board that the property being the Wakf Property, the defendant has no right to occupy and possess the same. The defendant/petitioner though claimed

possession for the last 55 years, but according to the findings recorded by the Tribunal, no documentary evidence could be produced to establish the ownership over the property. It is on this basis, the Tribunal decreed the suit of the plaintiff insofar as the possession is concerned. The Tribunal, however, declined relief of mesne profits. Main contention of the learned counsel for the petitioner is that before declaring the property as Wakf property, no notice was given to the petitioner who is/was in possession of the same for the last 55 years. He has relied upon the judgment of the Madras High Court in the case of **Abdul Kareem died and others v. The Special Officer for Wakfs Madras and others, AIR 1972 Madras 8 (V 59 C 6)** wherein it has been held that declaring property as Wakf Property by publication of notice, without giving notice to the parties affected is improper as it offends the principle of natural justice in depriving a person of his property. This judgment is of no avail to the case of the petitioner for the simple reason that the petitioner never challenged the Notification (Ex.P-2) in the suit on any ground whatsoever including that such a declaration was violative of any of the rights of the petitioner. The said Notification clearly indicates that the property is a Wakf Property and the declaration thereof has not been challenged by the petitioner before any competent

court/forum. The petitioner cannot seek any relief on the ground of violation of principles of natural justice. Declaration being conclusive as on date, the respondent/Board is entitled for possession of the suit property on the basis of the evidence produced before the Tribunal.

In view of the above, I do not find any merit in this revision which is accordingly dismissed.

(PERMOD KOHLI)
JUDGE

12 .7.2007
MFK

NOTE:Whether to be referred to the Reporter or not:YES/NO